



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,594	05/23/2001	Jorg Rheims	VOI0189.US	9308

7590 01/15/2004
Todd T. Taylor
TAYLOR & AUST, P.C.
142 S. Main St.
P.O. Box 560
Avilla, IN 46710

EXAMINER

ALVO, MARC S

ART UNIT PAPER NUMBER

1731

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,594

Applicant(s)

RHEIMS ET AL

Examiner

Steve Alvo

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 20-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Green with HANSEN (4,055,903) or CARLSMITH (5,810,973) to show inherency.

GREEN et al teach adding calcium carbonate solid particles (column 4, lines 59-61) to load paper pulp with the calcium carbonate filler and teaches that the pulp should be subjected to mechanical treatment in a refiner (column 4, lines 3-5) or disintegrator (column 6, lines 33-39). Such mechanical agitation would inherently fluff the pulp. HANSEN or CARLSMITH show that disintegrators ((column 4, lines 54-55) or refiners (column 1, lines 58-59) fluff the pulp.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over GREEN et al in view of HANSEN (4,055,903) or CARLSMITH (5,810,973).

If the fluffing of pulp is not inherently taught by GREEN et al, then it would have been obvious that the refiner and/or disintegrator of GREEN et al would be fluffing the pulp as taught by HANSEN (4,055,903) or CARLSMITH (5,810,973).

Applicant's arguments have been considered but are not convincing as Applicant has not shown that the intensive agitation of GREEN et al would not fluff the pulp. Although GREEN et al teaches the fibers may also receive mechanical treatment, such as refining or beating prior to lumen-loading (column 4, lines 3-5); GREEN et al teaches that this mechanical treatment can occur prior to lumen-loading or "during the impregnation stage", see column 6, lines 37-39.

Obviously, the mechanical treatment would include the refining of the fibers prior to or "during impregnation". It is also noted that when the fibers are mechanically fluffed in the refiner or pulper prior to lumen-loading, that the intensity of the mechanical aspects of the impregnation steps are increased to overcome the filtering out of lumen particles (column 4, lines 6-10). This increased mechanical treatment would fluff the fibers. It is also noted that the disintegrator is described by GREEN et al as providing mild agitation (column 6, lines 32-34). Since a disintegrator is known to fluff the pulp, see HANSEN, any increased agitation would also fluff the pulp. GREEN refers to the agitation during loading and impregnation as "extensive" (column 6, line 35), vigorously agitated (column 4, last line) and of increased intensity (column line 9) when mechanically treated prior to loading, e.g. increased greater than the "vigorously agitated" of column 4, last line. Clearly the mechanical agitation during the impregnation and loading of GREEN et al would fluff the fibers.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Application/Control Number:
09/863,594
Art Unit: 1731

Page 4

When filing an "**Official**" FAX in Group 1730, please indicate in the Header (upper right) "**Official**" for papers that are to be entered into the file. The "**Official**" FAX phone number for this TC 1700 is: 703-872-9306.

Any inquiry concerning this communication or earlier communications from the **primary examiner** should be directed to **Steve Alvo** whose telephone number is **571-272-1185**. The Examiner can normally be reached on Monday - Friday from **6:00 AM - 2:30 PM (EST)**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on **571-272-1189**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group receptionist** whose telephone number is **571-272-1700**.

MSA
January 9, 2004



STEVE ALVO
PRIMARY EXAMINER
ART UNIT 1731